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Attorneys for California Department of Forestry
and Fire Protection, et al.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re:

PG&E CORPORATION

- and -

PACIFIC GAS AND ELECTRIC
COMPANY,

Debtors.

- ☐ Affects PG&E Corporation
☐ Affects Pacific Gas and
Electric Company
☒ Affects both Debtors

Bankruptcy Case
No. 19-30088 (DM)

Chapter 11

(Lead Case)

(Jointly Administered)

Date: December 17, 2019
Time: 10:00 a.m.
Ctrm: 17
Judge: Dennis Montali

**RESPONSE OF THE CALIFORNIA STATE AGENCIES TO DEBTORS' MOTION
PURSUANT TO 11 U.S.C. §§ 363(b) AND 105(a) AND FED. R. BANKR. P. 6004 AND 9010
FOR ENTRY OF AN ORDER (I) AUTHORIZING THE DEBTORS AND TCC TO
ENTER INTO RESTRUCTURING SUPPORT AGREEMENT WITH THE TCC,
CONSENTING FIRE CLAIMANT PROFESSIONALS, AND SHAREHOLDER
PROPOSERS, AND (II) GRANTING RELATED RELIEF [DOCKET NO. 5038]**

1 The California Department of Forestry and Fire Protection, California Department of
2 Toxic Substances Control, California Governor's Office of Emergency Services, California
3 Department of Veterans Affairs, California State University, California Department of Parks and
4 Recreation, California Department of Transportation and California Department of
5 Developmental Services (collectively, the "California State Agencies") hereby respond to
6 *Debtors' Motion Pursuant To 11 U.S.C. §§ 363(b) and 105(a) and Fed. R. Bankr. P. 6004 and*
7 *9010 for Entry of an Order (I) Authorizing the Debtors and TCC to Enter Into Restructuring*
8 *Support Agreement with the TCC, Consenting Fire Claimant Professionals, and Shareholder*
9 *Proponents, and (II) Granting Related Relief* ("Tort Claimants RSA Motion") [Docket No. 5038]
10 based on the following:

11 1. As the Court is aware, the California State Agencies collectively hold substantial
12 prepetition claims related to the wildfires caused by Pacific Gas and Electric Company. Although
13 the California State Agencies are not parties to the Tort Claimants RSA and did not participate in
14 its negotiation, under the Tort Claimants RSA and Term Sheet most of their claims will be
15 included as Fire Claims and channeled to a Fire Victim Trust.¹ The California State Agencies'
16 fire-related claims for the Fires listed in Exhibit A of the RSA Term Sheet are proposed to be
17 satisfied in full from the \$13.5 billion Fire Victim Trust.

18 2. Under the Tort Claimants RSA, the "Requisite Consenting Fire Claimant
19 Professionals" will, on January 20, 2020, provide all terms for the Fire Victim Trust that are not
20 specified in the Term Sheet. Tort Claimants RSA § 2(i).²

21 3. The Tort Claimants RSA Motion seeks limited relief: authorization for the
22 Debtors, TCC, Consenting Fire Claimant Professionals and Shareholder Proponents to enter into
23 the Tort Claimants RSA and Term Sheet. The Tort Claimants RSA Motion does not purport to
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25
26 ¹ Capitalized terms not otherwise defined shall have the same meaning as the Motion, Tort
Claimants RSA or Term Sheet.

27 ² The Debtors just filed their *Debtors' and Shareholder Proponents' Joint Chapter 11 Plan of*
28 *Reorganization Dated December 12, 2019* (Dkt. No. 5101) ("Debtors' Amended Plan"). The
California State Agencies have not thoroughly reviewed the Debtors' Amended Plan and reserve
all rights.

1 bind any particular creditor, including the California State Agencies, to any particular chapter 11
2 plan, plan treatment or any other issue related to confirmation of a chapter 11 plan.

3 4. The California State Agencies file this statement to reserve any and all rights,
4 particularly with respect to any issues regarding the governance, administration and procedures
5 for the Fire Victim Trust and confirmation of the Debtors' Amended Plan (filed less than two
6 business days before this response was due), or any other chapter 11 plan, including, but not
7 limited to, the following issues:

8 a. Whether the Debtors' Amended Plan or any other chapter 11 plan complies
9 with the confirmation requirements of 11 U.S.C. § 1129;

10 b. Whether the Debtors' Amended Plan or any other chapter 11 plan fully
11 complies with the requirements of A.B. 1054;

12 c. If the Fire Victim Trust consists of more than one trust, whether the various
13 trusts treat the Fire Victim Claims in a manner that meets the requirements of the Bankruptcy
14 Code;

15 d. Any issues regarding the governance, administration and procedures for the
16 Fire Victim Trust, including but not limited to (i) the terms of the Fire Victim Trust agreement
17 that have yet to be disclosed, (ii) the claims resolution procedures that will govern the resolution,
18 liquidation, and payment of Fire Claims from the Fire Victim Trust, and (iii) the governance
19 structure for the Fire Victim Trust, including the adequate representation of the holders of Fire
20 Victim Claims on the committee or board to oversee the Fire Victim Trust and the selection of the
21 trustee(s);

22 e. Opposing the Estimation Approval Motion and Estimation Approval
23 Order; and

24 f. Such other issues as may arise during the Debtors' bankruptcy cases.

25 5. As noted in the Motion, several provisions of the Tort Claimants RSA permit its
26 termination under various circumstances, several of which are automatic. Tort Claimants RSA
27 Motion at 15:12 – 16:12. The California State Agencies reserve any and all rights to oppose the
28

1 Tort Claimants RSA Motion if there has been a termination, but the parties proceed with approval
2 of the Tort Claimants RSA anyway by waiving provisions of the RSA. *Id.* at 16:13-18.

3 6. So long as the relief requested on the Tort Claimants RSA Motion does not purport
4 to bind any particular creditor, including the California State Agencies, to any particular chapter
5 11 plan, plan treatment or any other issue related to confirmation of a chapter 11 plan, the
6 California State Agencies do not oppose the Tort Claimants RSA Motion and reserve all rights.
7 The California State Agencies reserve the right to join in other responses or objections to the Tort
8 Claimants RSA Motion.

9 7. Neither this statement nor any subsequent appearance, pleading, proof of claim,
10 claim or suit is intended or shall be deemed or construed as:

11 a. a consent by the California State Agencies to the jurisdiction of this Court
12 or any other court with respect to proceedings, if any, commenced in any case against or
13 otherwise involving the California State Agencies;

14 b. a waiver of any right of the California State Agencies to (i) have an
15 Article III judge adjudicate in the first instance any case, proceeding, matter or controversy as to
16 which a Bankruptcy Judge may not enter a final order or judgment consistent with Article III of
17 the United States Constitution, (ii) have final orders in non-core matters entered only after de
18 novo review by a District Court Judge, (iii) trial by jury in any proceeding so triable in the
19 Chapter 11 Cases or in any case, controversy, or proceeding related to the Chapter 11 Cases,
20 (iv) have the United States District Court withdraw the reference in any matter subject to
21 mandatory or discretionary withdrawal, or (v) any and all rights, claims, actions, defenses, setoffs,
22 recoupments or remedies to which the California State Agencies are or may be entitled under
23 agreements, in law or in equity, all of which rights, claims, actions, defenses, setoffs and
24 recoupments are expressly reserved hereby; or

25 c. a waiver of any objections or defenses that the State of California, the
26 California State Agencies or any other agency, unit or entity of the State of California may have
27 to this Court's jurisdiction over the State of California, the California State Agencies or such
28 other agency, unit or entity based upon the Eleventh Amendment to the United States

1 Constitution or related principles of sovereign immunity or otherwise, all of which objections and
2 defenses are hereby reserved.

3 Dated: December 16, 2019

Respectfully submitted,

4 XAVIER BECERRA
Attorney General of California
5 MARGARITA PADILLA
Supervising Deputy Attorney General
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7 By: /s/ Paul J. Pascuzzi

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11 Emergency Services, California Department of Veterans
Affairs, California State University, California
12 Department of Parks and Recreation, California
Department of Transportation and California
13 Department of Developmental Services
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I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is 500 Capitol Mall, Suite 2250, Sacramento, CA 95814. On December 16, 2019, I served the within documents:

By Electronic Service only via CM/ECF.

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